



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ADKA-Trading & Finance Corp.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FF, MND, MNDC, MNR, MNSD, DRI

### Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord. Both files were to be heard together; however at the beginning of the conference call the landlord testified that he had never received any copies of his application for dispute resolution from the Residential Tenancy Branch and therefore he has never served the tenant with the notice of hearing and hearing documents. It is my decision therefore, that I will not proceed with the landlords application for dispute resolution and the application is therefore dismissed with leave to reapply.

I therefore dealt solely with the tenant's application for dispute resolution which is a request for a monetary order totaling \$3425.00 and requesting recovery of her filing fee.

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

Both parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondent, and if so in what amount.

Background and Evidence

The tenant testified that this tenancy originally began on August 1, 2016 with a monthly rent of \$1350.00 due on the first of each month.

The tenant further testified that on October 1, 2016 she signed a new tenancy agreement with the landlord allowing her boyfriend to live in the rental unit at an increased rent of \$1530.00 per month.

The tenant further testified that with the new tenancy agreement a security deposit of \$765.00 was collected.

The tenant further testified that she inadvertently overpaid the rent by \$1350.00 in October of 2016, and therefore she is requesting an order for return of that overpayment.

The tenant further testified that the landlord did not return the security deposit at the end of the tenancy, and therefore she is requesting an order for the return of that deposit as well.

The applicant further testified that she felt pressured into signing a new lease with the landlord, when her boyfriend was staying over, and therefore she believes she should have the extra rent they paid returned, as she believes this is an illegal rent increase.

The landlord testified that the tenant did inadvertently overpaid the rent by \$1350.00 and he does not dispute that claim.

The landlord further testified that the tenants did pay a security deposit of \$765.00 when they signed a new lease on October 1, 2016, however at the end of the tenancy, on the moveout inspection report, the tenant signed her permission for the landlord to retain the full security deposit.

The landlord further testified that the rent increase was not an illegal rent increase as on the original tenancy agreement the tenant had agreed to pay an extra amount if the new occupant moved in, and both the tenant and her boyfriend, the other tenant, signed the new agreement agreeing to pay \$1530.00 in rent.

In response to the landlord's testimony the tenant testified that she does not recall signing her agreement for the landlord to keep the security deposit on the move out inspection report; however she may have.

### Analysis

It is my decision that since both the tenant and the landlord agree that the tenant overpaid the rent by \$1350.00, I will allow that portion of the tenants claim.

It is my decision however, that I will not allow the tenants claim for an order for the return of her security deposit as I accept the landlords testimony that the tenant signed over her agreement for the landlord to retain the full security deposit. The tenant herself stated she is not sure whether or not she signed that agreement, and therefore as stated above I am willing to accept the landlord's testimony on this matter.

It is also my decision that the tenants do not have the right to an order for the return of rent paid under the new contract. The tenants both signed a new contract and it is my decision, therefore, that they are bound by that contract at the rental amount of \$1530.00 per month.

Having allowed \$1350.00 of the claim I also allow the request for recovery of the \$100.00 filing fee.

Therefore pursuant to sections 62 and 72 of the Residential Tenancy Act I have allowed \$1450.00 of the tenants claim and the remainder of the claim is dismissed without leave to reapply.

### Conclusion

I have issued a monetary order for the respondent in the tenants application, who's initials are N.K., to pay \$1450.00 to the tenant.

As stated previously the landlord's application has been dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 20, 2017

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Residential Tenancy Branch